

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

TIMOTHY HURST

Petitioner,

v.

Case No. 10-C-0685

MICHAEL THURMER

Respondent.

DECISION AND ORDER

On August 12, 2010, Timothy Hurst filed this petition pursuant to 28 U.S.C. § 2254, asserting that his state-court conviction and sentence were imposed in violation of the Constitution. Petitioner was convicted in Milwaukee County Circuit Court of burglary with a person present, false imprisonment while armed, substantial battery while armed, and armed robbery—all as party to a crime. He was sentenced to twelve years of initial confinement and ten years of extended supervision on the armed robbery count. (The sentences on the other counts were stayed in favor of probation.)

Although petitioner raises five grounds for relief in his petition, all of those claims boil down to the question of whether the state deprived him of due process because a detective lost an ID card that was found at the scene of the crime. The Wisconsin Court of Appeals adjudicated this claim on the merits and concluded in a written opinion that petitioner was not deprived of due process. See Answer Ex. 6, ECF No. 12-6. In that opinion, the court identified the controlling federal law, see Arizona v. Youngblood, 488 U.S. 51 (1988); California v. Trombetta, 467 U.S. 479 (1984), and applied that law reasonably to the facts of the case before it. Moreover, the decision was not based on an unreasonable

determination of the facts in light of the evidence presented in the state-court proceedings. Accordingly, petitioner's request for habeas relief cannot be granted. See 28 U.S.C. § 2254(d). Because the Wisconsin Court of Appeals's analysis is complete and correct, I will refer the reader to that opinion rather than offer any additional analysis here.

For the reasons stated, **IT IS ORDERED** that the petition for writ of habeas corpus is **DENIED**. The Clerk of Court shall enter final judgment. Pursuant to Rule 11 of the Rules Governing § 2254 Cases, I find that petitioner has not made the showing required by 28 U.S.C. § 2253(c)(2), and therefore I will not issue a certificate of appealability.

Dated at Milwaukee, Wisconsin, this 28th day of February 2012.

s/ _____
LYNN ADELMAN
District Judge